

## **Consumer Alert: Viaticals**

### **What is a viatical settlement?**

A viatical settlement is an agreement in which a company or investor pays you part of the value of your life insurance policy – usually 50 to 80 percent. In return, this company or investor owns your policy, continues to pay the premiums and receives the full benefit when you die.

### **Who is involved in this agreement?**

- The **viator** is the person who has a terminal illness or condition and is seeking to receive some benefit from their life insurance policy before death. AIDS patients are the primary sellers of their life insurance prior to death but the industry is beginning to market to other kinds of patients, such as those with cancer or cardiovascular disease.
- The **viatical settlement provider** is the person or company licensed to pay the viator the benefit in return for the death benefits of the life insurance. When the viator dies, the provider receives the face amount of the policy. The **viatical settlement broker** is someone who is licensed to accept a commission or other fee for arranging viatical settlements. This person negotiates the contract between the viator and the provider, similar to an insurance agent.
- The **viatical settlement contract** is the contract under which the viatical transaction takes place. It is where the provider agrees to pay the viator and the viator transfers ownership of the policy to the provider.

### **Consumer Tips:**

- All viatical brokers and providers must be licensed by the Kentucky Department of Insurance.
- Any viatical settlement contract used by the provider must be filed and approved by the department.
- Providers must also use a mandatory disclosure form ensuring the rights of the viator are properly explained prior to execution of the contract.

### **Items that must be disclosed include:**

- Options, such as Accelerated Death Benefits;
- Tax liabilities on funds received. A tax adviser should be consulted.
- Funds may be accessible by creditors.
- Effect on eligibility for government benefits, like Medicaid.
- Contract may be rescinded within 30 days of signing or 15 days after proceeds are received, whichever is less.
- Funds must be paid to the viator within two days after notice of transfer to approved bank, or the transaction is null and void.

Exercise caution in how much you accept, since the typical consumer is terminally ill and vulnerable at the time of this agreement. Seek advice from your agent, family members, trusted friends and others before making this important decision. Consumers should be cautious about investing in viaticals, make sure they are dealing with licensed agents, and contact the Kentucky Department of Insurance hotline with any questions, (800) 595-6053.